



DEPARTMENT OF VETERANS AFFAIRS

Implementation of the PAWS for Veterans Therapy Act

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is publishing this notice to inform the public about how it is implementing the Puppies Assisting Wounded Servicemembers for Veterans Therapy Act.

DATES: This notice is effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Stacey Pollack, 810 Vermont Avenue, NW, Washington, DC 20420; 202-461-4174. This is not a toll-free telephone number.

SUPPLEMENTARY INFORMATION: The Puppies Assisting Wounded Servicemembers for Veterans Therapy Act (hereinafter referred to as “the Act”) was signed into law by the President on August 25, 2021, (Pub. L. 117-37, 135 stat. 329). Section 2 of the Act requires VA to conduct a pilot program to provide canine training to eligible veterans diagnosed with posttraumatic stress disorder (PTSD) as an element of a complementary and integrative health program for such veterans. This notice provides information on how VA will implement the requirements of section 2 of the Act and is not a solicitation for public comment or request for information regarding VA’s implementation of section 2 of the Act, as outlined below. Therefore, responses to this notice may not be used to inform VA’s implementation of section 2 of the Act, and VA will not address such responses. A brief summary of the provisions in section 2 of the Act follows.

Summary of provisions in section 2 of the Act

- Section 2(a) requires that VA, not later than February 21, 2022, commence the conduct of a pilot program to provide canine training to eligible veterans diagnosed with PTSD as an element of a complementary and integrative health program for such veterans.

- Section 2(b) requires that the pilot program conducted under subsection (a) be carried out for a 5-year period beginning on the date of the commencement of the pilot program, by not fewer than 5 VA medical centers (VAMC) located in geographically diverse areas.

- Section 2(c) requires that, in carrying out the pilot program required under subsection (a), VA must seek to enter into agreements with nongovernmental entities that VA determines have the demonstrated ability to provide the canine training specified in subsection (a).

- Section 2(d) establishes certain conditions for inclusion in any agreements under subsection (c).

- Section 2(e) establishes that a veteran who has participated in the pilot program under subsection (a) may adopt a dog that the veteran assisted in training during the pilot program if the veteran and the veteran's health provider, in consultation with the entity that provided the canine training with respect to that dog under the pilot program, determine that it is in the best interest of the veteran. This section also includes language regarding the responsibility of the entity that provided the canine training under the pilot program to provide follow-up training support for the life of the dog, if the veteran who participated in the pilot program adopts the dog under this subsection.

- Section 2(f) establishes that participation in the pilot program under subsection (a) may not preclude a veteran from receiving any other medical care or treatment for PTSD furnished by VA for which the veteran is otherwise eligible.

- Section 2(g) establishes data collection requirements based on veterans' participation in the pilot program and such other factors as VA determines appropriate.
- Section 2(h) establishes VA's reporting requirements associated with the pilot program.
- Section 2(i) requires the Comptroller General to brief and report to Congress on the methodology of the pilot program.
- Section 2(j) establishes definitions, for purposes of section 2, for the following terms: accredited service dog organization (SDO), eligible veteran and service dog training instructor.

Implementation of the Pilot Program

VA's implementation of the pilot program will reflect the following considerations:

Canine Training

Section 2(a) provides that VA must conduct a pilot program to provide canine training to eligible veterans diagnosed with PTSD as an element of a complementary and integrative health program for such veterans. The term canine training is not defined in the Act, and VA has not otherwise defined this term. However, the term canine training is characterized in the Act as "an element of a complementary and integrative health program" for veterans participating in the pilot program. The Act similarly does not contain a definition of the term complementary and integrative health (CIH); however, VA's internal policy defines CIH as a group of diverse medical and health care approaches and practices that are not considered to be part of conventional or allopathic medicine. See Veterans Health Administration (VHA) Directive 1137(2), Provision of Complementary and Integrative Health (May 18, 2017; amended July 2, 2021).

Based on its experience, VA has distinguished the following two types of CIH: treatment services and well-being services. Unlike treatment services, well-being services are often practices offered outside of a clinical setting and involve a practitioner or instructor teaching veterans to advance their sense of well-being and improve their quality of life.

VA is implementing the canine training under the pilot program as an element of CIH well-being services. CIH well-being services are those activities that a veteran may complete without the need for assistance from a health care professional or in a clinical setting and that may advance the veteran's sense of well-being and improve the veteran's quality of life. Because the canine training will be considered CIH well-being services, it is not a direct clinical intervention, and the training does not involve the provision of health care. This will allow more veterans to participate in canine training; thereby, affording more veterans potential well-being benefits.

Commencement and duration of the pilot program

Section 2(a) requires that, not later than 180 days after the date of the enactment of the Act, VA must commence the conduct of a pilot program. As the Act was signed into law on August 25, 2021, VA was required to commence the conduct of a pilot program by February 21, 2022. By this date, VA selected the pilot program sites and initiated efforts at the sites to begin implementing the pilot program and to ensure VA staff are aware of the canine training to be conducted under the pilot program. However, the actual canine training did not begin by that date. VA is still working to form agreements with nongovernmental entities that will furnish the canine training. For purposes of section 2(b)(1), VA considers the date the pilot program commenced as February 21, 2022.

Veteran participation in the pilot program

Section 2(j)(2) defines the term eligible veteran to mean a veteran who is enrolled in VA's patient enrollment system under 38 U.S.C. 1705 (regulated under 38 CFR 17.36), and who has been recommended for participation in the pilot program by a qualified mental health care provider or clinical team based on medical judgment that the veteran may benefit from such participation with respect to the PTSD symptoms of the veteran. In other words, to participate in the pilot, a veteran must meet three threshold conditions for eligibility; namely, the veteran must be (1) enrolled in the VA health care system; (2) diagnosed with PTSD; and (3) recommended by a VA mental health care provider or VA clinical team.

Section 2 does not define or characterize the phrase "qualified mental health care provider or clinical team." Rather than define qualifications, VA interprets this phrase to mean that a VA mental health care provider or VA clinical team must recommend a veteran for participation in the pilot program. Limiting the recommendation to VA providers will allow VA to assess more consistently each veteran that may want to participate under the same criteria and will allow for more consistent collection of data, as required under section 2(g)(1)(B)-(D). Veterans, who receive care from non-VA providers under the Veterans Community Care Program and who wish to participate in the pilot program, can discuss the program with their non-VA provider but will need to obtain a recommendation from a VA mental health care provider or VA clinical team. Veterans interested in participating in the pilot program, who are receiving care from non-VA providers, should contact the participating VAMC where they receive care or authorization for non-VA care, for more information on how to participate in the pilot program.

Before a VA mental health care provider or VA clinical team can recommend the veteran for participation in the program, the veteran must have had an appointment with a primary care, mental health, whole health, recreation therapy or social work provider

within the previous 3 months. VA will also require veterans participating in the program to remain engaged with one or more of these clinical areas; to remain engaged, a veteran must have an appointment at least once every 3 months until they have completed the pilot program. Section 2(j)(2)(B) requires a qualified mental health care provider or clinical team to form a medical judgment that participation in the pilot program may benefit the veteran with respect to the veteran's PTSD. Having regular appointments (at least 1 every 3 months) is essential to ensure that this judgment is still accurate. If a veteran who is interested in participating in the pilot program has not been seen for an appointment within the last 3 months, the veteran can schedule an appointment with a VA provider to begin the recommendation and screening process.

Once the veteran has had this appointment, the veteran can then be screened for participation. This screening will be performed by a licensed independent VA mental health care provider to confirm the diagnosis of PTSD through a clinical assessment and determine suitability for participation in the pilot program. This screening must occur within 3 months prior to the first canine training session. This may require subsequent screening in some cases; for example, if a veteran was screened and recommended for participation in the pilot program on January 1, but the veteran is unable to participate in the program until July 31, due to limited space or other issues, the veteran may need to be screened again prior to participation. This screening would not necessarily require the veteran to schedule another appointment with the licensed independent VA mental health care provider; although, a review of the veteran's medical chart may be sufficient. The licensed independent VA mental health care provider will make a clinical determination as to which, if any, reassessments are necessary for participation, and whether such reassessments require a direct interaction (either in person, by phone or by telehealth) with the veteran. VA will make every effort to ensure that all screening is completed in a timely manner and as conveniently as possible for the veteran. As noted

above, screening must be performed by VA mental health care providers and recommendations must be from VA providers or clinical teams; meaning, that if VA were unable to offer a screening within the designated access standards under 38 C.F.R. § 17.4040, that would not authorize the veteran to elect to receive care in the community. These screenings would not constitute the delivery of medical services under such access standards. This also means that the screening will impose no copayment obligation on the veteran. The screenings entail clinical decision making and the exercise of medical judgment, as may occur in a research study or other clinical programs. We note; however, that the pilot program is not a research study.

In the screening, VA providers will assess veterans for criteria that would suggest that participation in the pilot program may not be appropriate, including, but not limited to frequent aggressive behaviors or homicidal ideation that may make it unsafe for the veteran to be with a dog or co-morbid diagnoses that would make training with a dog difficult or not feasible (e.g., psychosis, delusions, certain cognitive impairment). We are stating these additional elements to explain to the public how qualified VA mental health care providers or clinical teams will make recommendations for participation in the pilot program. Once the veteran has been screened, VA will refer eligible veterans to the accredited SDO, as described below, for canine training. Given these organizations' limited capacity, not all veterans who meet eligibility criteria may be able to participate in the program. There will be a "pilot champion" at each of the five pilot sites; the pilot champion will be a VA staff member serving as a liaison between the VAMC and the SDO furnishing canine training, pursuant to an agreement described in section 2(c).

The canine training model will have veterans engage in both basic obedience and other training of a dog, so that the dog may eventually become, in most cases, a service dog for another individual. Participating in the canine training may improve veterans' self-efficacy and increase their sense of purpose and self-worth. For example,

participating veterans may work to train a dog to establish trust, build a relationship and practice socializing, and through that process, those veterans may better recognize and learn to optimally regulate their own emotional arousal to train the dog. These sessions are typically conducted in small group classes and will be overseen by a certified service dog training instructor. VA clinical staff will not accompany a veteran to attend canine training under the pilot program. The canine training sessions under the pilot program will typically meet once a week for 8 weeks, and participating veterans may work with multiple dogs and other veterans within their small group as a form of social engagement.

Selection of VA sites

Section 2(b)(2) requires VA to ensure that the pilot program is carried out by not fewer than five VAMCs located in geographically diverse areas. In selecting the five pilot program sites, VA first considered the geographic proximity of VAMCs to accredited SDOs, because the nongovernmental entities that would provide the canine training under section 2(c) are further required to be an accredited SDO under section 2(d)(1). Section 2(j)(1) of the Act defines accredited SDO as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that: (1) provides service dogs to veterans with PTSD and (2) is accredited by an accrediting organization with demonstrated experience, national scope and recognized leadership and expertise in the training of service dogs and education in the use of service dogs (as determined by VA). VA recognizes the expertise and national scope of the following two organizations that accredit SDOs under its regulations in 38 C.F.R. § 17.148(c)(1): Assistance Dogs International (ADI) and International Guide Dog Federation (IGDF). Between ADI-accredited and IGDF-accredited SDOs, only ADI-accredited SDOs provide the type of

instruction discussed earlier. Therefore, VA considered the proximity of VAMCs to ADI-accredited SDOs, for purposes of identifying potential pilot program sites.

VA next considered VAMCs near ADI-accredited SDOs that expressed interest in participating in the pilot program for 5 years and would be able to conduct assessments and recommend veterans to the pilot program, as well as conduct other programmatic aspects of the pilot (such as data collection required under section 2(g)). Of the VAMCs that met the criteria above, VA then considered five sites that would be in geographically diverse areas, as required by section 2(b)(2). VA attempted to consider VAMCs that were in different Veterans Integrated Service Networks (VISN), which are VA's designated regional systems of care in the country. Given these factors, VA identified the following five VAMCs as the required pilot program sites under section 2(b)(2): Palo Alto, California; Anchorage, Alaska; Asheville, North Carolina; West Palm Beach, Florida; and San Antonio, Texas.

Agreements with entities to furnish canine training

Section 2(c) requires VA to seek to enter into agreements with nongovernmental entities that VA determines can provide canine training under the pilot program, and section 2(d) establishes minimum required conditions to be included in any such agreements. Section 2(d)(1) further establishes that any agreements formed between VA and a nongovernmental entity will include a certification from the entity that it is an accredited SDO. We reiterate from the discussion earlier in this notice, in accordance with section 2(j)(1), as well as VA's knowledge and recognition of ADI-accredited SDOs providing service dogs to veterans with PTSD, that VA will seek to enter into agreements under section 2(c) with ADI-accredited SDOs. Because section 2 does not confer any grant or cooperative agreement authority under which VA may conduct the pilot program, VA has engaged directly with ADI-accredited entities that are located

near the five VA pilot sites, to gauge interest and determine their ability to furnish canine training under the pilot, to include Dogs for Life; Paws for Purple Hearts; and Warrior Canine Connection. VA anticipates the agreements formed with these entities will establish that SDOs will furnish canine training as in-kind services. The agreements further will include all conditions as required under section 2(d) and additional terms necessary. VA is entering into this agreement with SDOs that have the experience necessary to provide this model of training. In this manner, the agreements would reflect VA's understanding that these SDOs provide canine training to veterans at no cost to veterans. VA does not envision forming agreements under section 2(c) that would create any additional cost for VA or the veteran in terms of payment for the canine training.

Adoption of a dog

Section 2(e) establishes that a veteran who has participated in the pilot may adopt a dog that the veteran assisted in training as part of the pilot program, if the veteran and veteran's provider (in consultation with the SDO that provided the canine training under the pilot program) determine that it is in the best interest of the veteran. The language in section 2(e) establishes a permissive authority related to adoption of a dog and does not compel the provision of a dog to a veteran. ADI-accredited organizations that will be furnishing the canine training under the pilot program train and pair qualified service dogs with individuals with disabilities and do not necessarily participate in the adoption of dogs.

Because the adoption provision in section 2(e) is permissive, and because the ADI-accredited organizations that will furnish canine training under the pilot program may not necessarily participate in the adoption of dogs, VA will not implement the adoption provisions under section 2(e). Determinations about whether it is in the best

interest of a veteran to adopt a dog extends beyond VA providers' scope of licensure, the VA Scope of Practice and their sphere of clinical expertise. This does not prevent any veteran from independently seeking to adopt a dog; however, such adoption would not be an adoption under section 2(e)(1). Any veteran seeking to be prescribed a service dog and subsequent service dog benefits, instead of merely adopting a dog, would have to be separately evaluated by VA under the criteria in section 17.148 and prescribed a service dog, prior to owning the dog, to be considered for service dog benefits.

Beneficiary travel

The canine training under the pilot is not considered examination, treatment or care for purposes of qualifying for reimbursement or payment of beneficiary travel (BT) expenses, should a veteran eligible for BT benefits need to travel to receive the canine training. Although BT benefits will not be available for any travel that may be associated with the canine training under the pilot, we believe in many cases that veterans who would participate in the pilot will be able to transport themselves. Other transportation options, such as the Volunteer Transportation Network, may also be available.

Appeals

During the course of the pilot program, disagreements may arise regarding veteran participation. We anticipate that the vast majority of these disagreements will be subject to VA's clinical appeals process, as set forth currently in VHA Directive 1041, *Appeal of Veterans Health Administration Clinical Decisions* (September 28, 2020). The clinical appeals process applies to a written request for higher review of one or more medical determinations. Medical determinations usually concern the need for and appropriateness of specific types of medical care and treatment for an individual and

generally include decisions by an appropriate health care professional based on their medical judgment.

Eligibility to participate in the pilot program is limited, by section 2(j)(2), to veterans who are: (1) enrolled in the VA health care system; (2) diagnosed with PTSD; and (3) recommended for participation in the pilot program by a qualified mental health care provider or clinical team, based on medical judgment that the veteran may benefit from such participation with respect to the diagnosed PTSD of the veteran. While determinations of whether a veteran is enrolled in the VA health care system are administrative and not clinical, such matters are typically easily discernable and do not entail much dispute. Disagreements with administrative decisions are appealable to the Board of Veterans' Appeals. However, diagnosis of PTSD and a recommendation concerning the need for, and the appropriateness of, specific types of medical care and treatment, based on medical judgment, are decisions that are clinical in nature and therefore subject to the clinical appeals process in VHA Directive 1041.

Throughout the course of the pilot program, SDOs providing the canine training will have the discretion and authority to determine whether they will provide training to a veteran at a particular time. A veteran who is disruptive; incapable of or unwilling to follow directions; or presents a danger to themselves or others (including the dogs being trained) could be denied the ability to participate in the program on at least a temporary basis. In any of these situations, such information will be relayed to the pilot champion, who will coordinate with the provider or clinical team responsible for the initial recommendation for participation to determine if that recommendation is still applicable. If the provider's or team's medical judgment changes, based on this or any other information, such that they no longer recommend the veteran's participation, that decision would be a clinical decision appealable under VHA Directive 1041. If the SDO determines it will not or cannot provide the canine training for other reasons, such as

limited resources or other constraints, the SDO and VA will attempt to ensure that eligible veterans who have been recommended for participation are able to do so at a later time. Participation will generally be granted on a first-come, first-served basis.

Signing Authority

Denis McDonough, Secretary of Veterans Affairs, approved this document on March 23, 2022 and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

Luvenia Potts,
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